REMARKS

The present Amendment amends claims 1, 2, 4-8 and leaves claim 3 unchanged. Therefore, the present application has pending claims 1-8.

Applicants acknowledge the Examiner's indication in the Office Action that claim 4 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Amendments were made to claim 4 to place it in independent form including all the limitations of the base claim and any intervening claims. Therefore, claim 4 is allowable as indicated by the Examiner.

Claims 1-8 stand rejected under 35 USC §103(a) as being unpatentable over Lutterschmidt (U.S. Patent No. 6,356,947). This rejection is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1-8 are not taught or suggested by Lutterschmidt whether taken individually or in combination with any of the other references of record.

Amendments were made to the claims so as to more clearly recite that the present invention is directed to a video server, a method of distributing video content by a video server and a computer program which is implemented by a video server. According to the present invention, the video server determines whether or not a video content requested by a terminal is stored in the video server and transmits a transmission request to another video server for transmitting the video content from the other video server when the video content requested by the terminal is not stored in the video server. According to the present invention, the transmission request

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from the video server to the other video server is formatted according to the hyper-text transfer protocol (HTTP).

Further, according to the present invention, the video content transmitted from other video server is received, wherein the video content transmitted from the other video server in response to the request is formatted according to the HTTP.

Still further, according to the present invention, once the video content has been received from the other video server or the video content is determined to have been stored in the video server, the video content is transmitted to the terminal, wherein the video content transmitted to the terminal is formatted according to the multicast internet protocol (IP).

Thus, as is now more clearly recited in the claims, the present invention provides a system in which the communications between the video servers and between a server and a terminal are formatted using different protocols. For example, the request which is sent to another video server when the video content has been determined to not be stored in the video server is formatted according to the HTTP and the video content which is transmitted from the video server to the terminals whether the video content is obtained from the other video server or is stored in the video server, is formatted according to the multicast IP.

Additionally, the claims recite, that the video content that is transmitted from the other video server to the video server from which the request sent is formatted according to the HTTP.

The above described features of the present invention provide unique advantages being that the request from the one video server to the other video

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server is formatted according to the HTTP allows for ease of transmission of such a request through firewalls, and the like, whereas the use of the multicast IP for transmitting video data from a video server to the terminal allows for quick transmission of the video content across the internet.

The above described features of the present invention are not taught or suggested by any of the references of record particularly Lutterschmidt whether taken individually or in combination with each other.

Lutterschmidt teaches a data delivery system such as that illustrated in Figs. 1 and 2 wherein a data delivery system 10 includes a central server node 50 which is interconnected to a plurality of data server nodes 40 and content server nodes 60. Lutterschmidt also teaches that a plurality of client nodes 20 are interconnected to the data server node 40 via a communications network 30.

Lutterschmidt specifically teaches that when a client node 20 desires a particular data set, the request for such data set is sent to the central server node 50. The central server node 50 continuously monitors the status of each of the data server nodes 40 and based upon information obtained from said monitoring determines which of the data server nodes are appropriate for responding to the request from the client node 20.

Thus, in Lutterschmidt the request for particular data is not sent from the client node to the data server node 40 but is instead sent to the central server node 50 which determines which of the data server nodes 40 are appropriate for responding to the request. Further, since the central server node 50 performs all matching and clearance functions relative to each request received, there is no teaching or

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suggestion in Lutterschmidt that each data server node 40 itself makes its own determination as to whether the data is stored in the data server node 40 or is stored in another data server node 40 as in the present invention as recited in the claims. Further, there is no teaching or suggestion in Lutterschmidt that if it is determined by a data server node 40 that the data does not exist therein, a request is sent to another data server node 40 as in the present invention as recited in the claims. Even further, there is no teaching or suggestion in Lutterschmidt that the other data server node 40 upon receipt of a request sends the video data to the data server node that sent the request so as to permit the data server node to output the video data to the client node 20 which requested the video content as in the present invention as recited in the claims.

Even beyond the above, there is no teaching or suggestion in Lutterschmidt that different protocols are used for different types of communications as in the present invention. For example, according to the present invention as now more recited in the claims the request from one video server to another video server is formatted according to the HTTP, whereas video data which has been found and is to be transmitted to the client terminal is formatted according to the multicast IP.

A graphical illustration of the difference between the present invention as claimed and the teachings of Lutterschmidt is provided by the attached Sketch.

In the Office Action the Examiner readily admits that the use of various formats for different kinds of communications are not taught or suggested by Lutterschmidt. However, the Examiner attempts to supply these deficiencies of Lutterschmidt by taking "Official Notice" of an alleged concept and advantage of

using the HTTP for transmitting/receiving video content. The Examiner alleges that such is well known in the art as evidenced by Dunlap (U.S. Patent No. 6,760,749). Applicants hereby traverse this Official Notice by the Examiner and respectfully request that the Examiner reconsider and withdraw this Official Notice.

Particularly, it is noted that the Examiner has not cited an appropriate reference to support his allegation that transmitting/receiving video content using the HTTP is well known. Dunlap has an effective date of May 10, 2000 which is well after the claimed priority date of the present application of February 24, 2000. As the Examiner is aware, Applicants have perfected their claim of priority by the filing of a certified copy of the Priority Document on December 20, 2002 at the time the present application was filed. Applicants further perfected their claim of priority by submitting a Sworn English Translation of the Priority Document on October 29, 2004.

Thus, Dunlap cannot be used to prove the existence of any teaching therein at the time the invention of the present application was made since it is not prior to the claimed priority date. Therefore, in accordance with the practice in MPEP 2144.03, when the Examiner's taking of Official Notice has been traversed the Examiner must produce a reference which supports the alleged well known teaching. At no point is there a reference cited by the Examiner that supports the Examiner's alleged well known teaching.

In fact, even if such a reference like Dunlap is used the teachings therein does not address the unique features of the present invention wherein different communication protocols are used for different types of communications in a video distribution system as recited in the claims. Namely, according to the present

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invention the request of video content from one video server to another video server is formatted according to the HTTP and the transmission of the video content from the video server to the client is formatted according to the multicast IP. These features are clearly not taught or suggested by Dunlap if it could be used to reject the claims.

Thus, as is quite clear from the above, that Lutterschmidt fails to teach or suggest <u>means for transmitting a transmission request to another video server for transmitting the video content from the another video server when the video content requested by the terminal is not stored in the video server, said transmission request being formatted according to the hyper-text transfer protocol</u> as recited in the claims.

Further, Lutterschmidt fails to teach or suggest <u>means for receiving the video content transmitted from the other video server, the video content transmitted from the other video server in response to request being formatted in accordance with the HTTP</u> as recited in the claims.

Still further, Lutterschmidt fails to teach or suggest <u>transmitting the video content received from the other video server or as stored in the video server to the terminal wherein the video content being transmitted to the terminal is formatted in accordance with multicast internet protocol</u> as recited in the claims.

Therefore, Lutterschmidt fails to teach or suggest the features of the present invention as now more clearly recited in the claims. Accordingly, reconsideration and withdrawal of the 35 USC §103(a) rejection of claims 1-3 and 5-8 is respectfully requested.
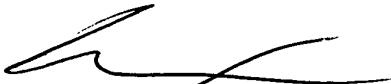
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The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the reference utilized in the rejection of claims 1-3 and 5-8.

In view of the foregoing amendments and remarks, applicants submit that claims 1-8 are in condition for allowance. Accordingly, early allowance of claims 1-8 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (500.39409X00).

Respectfully submitted,

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